IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5572 of 2005

Between:

1 The Government of Andhra Pradesh, represented by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2 The Commissioner of Land Revenue, Hyderabad.

..... PETITIONERS

AND

Smt. B. Udayalakshmi, formerly Special Grade Deputy Collector and Project Director, DRDA, Ongole and presently Collector, Prakasam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Certiorari and calling for the records relating to the order passed in O.A.No.3255 of 1997, dt. 01.04.2004 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: Mr.C.Srinivasa Baba

The Court at the admission stage made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed by the State Government assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.3255 of 1997, dated 1.4.2004.

2. The respondent was initially appointed as Probationary Deputy Collector on 7.9.1987 under Grade-I service. At the time of entry into service, her date of birth was recorded as 10.12.1958. However, immediately after joining the post, she made a representation on 14.9.1987 to correct her date of birth from 10.12.1958 to 17.3.1961. The State Government rejected her case by passing an order on 10.11.1994. Aggrieved by the said rejection, she filed the above OA. The learned Tribunal, after considering the matter with reference to the material placed before it, came to the conclusion that the respondent herein is entitled for correction of her date of birth as 17.3.1961 instead of 10.12.1958 and accordingly allowed the OA. After the order was passed by the Tribunal, the State Government has taken a decision to implement the order of the Tribunal and accordingly issued G.O.Ms.No.431, Revenue (Ser.I) Department, dated 8.6.2004 and G.O.Rt.No.821, Revenue (Ser.I) Department, dated 11.6.2004. It is also brought to the notice of this Court that the Government again considered the matter and passed order in Memo No.119221/Rev/Ser-I/2004(1018)-1, dated 3.9.2004 reiterating implementation of the directions already issued in G.O.Ms.No.431, dated 8.6.2004, which were issued in pursuance of the order passed by the Tribunal in the present OA.

3. The learned Government Pleader for Services-II submits that when the dispute regarding rejection of correction of date of birth was pending consideration before the Tribunal, the respondent was promoted to IAS cadre with effect from 19.9.1997 and she was allotted to 1993 batch. The grievance of the learned Government Pleader is that the Central Government issued communication to the State Government to the effect that as per Rule 16-A of the AIS (DCRB) Rules, 1958, the date of birth as entered and accepted by the Central Government is final and

therefore in the wake of this communication, the Writ Petition has been filed by the State.

4. We are afraid we cannot accept the contention of the learned Government Pleader. Once the order of the Tribunal has been implemented, it is no more open for the State Government to challenge the same. Necessarily the date of birth of the respondent has to be entered in her service record as 17.3.1961. Under these circumstances, we find that the Writ Petition itself is not maintainable in the wake of G.O.Ms.No.431, dated 8.6.2004.

5. In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.)

18th March, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Government of Andhra Pradesh, represented by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2 The Commissioner of Land Revenue, Hyderabad.

3 The Registrar, A.P. Administrative Tribunal, Hyderabad.

4 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

5 2 CD copies

6 1 CC to MR.SRINIVASA BABA

*Form-NIC-OGS/WP{**JGK**}*